UNITED STATES PATENT AND TRADEMARK OFFICE

·APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,694	08/20/2003	Ronald Jon Lander	1937-1-3	6721

7590 12/11/2006		EXAMINER
Jeffrey T. Haley		WASHBURN, DOUGLAS N

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ART UNIT	PAPER NUMBER
2863	

DATE MAILED: 12/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/644,694	LANDER, RONALD JON
	Examiner	Art Unit	
	Douglas N. Washburn	2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>11 September 2006</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-4,7-19,21,22 and 25-32</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-4,7-19,21,22 and 25-32</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>20 August 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1   In view of the appeal brief filed on 11 September 2006, PROSECUTION IS

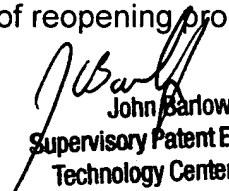HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the

following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply

under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed

by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and

appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth

in 37 CFR 41.20 have been increased since they were previously paid, then appellant

must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by

signing below:

John Barlow.

John Barlow
Supervisory Patent Examiner
Technology Center 2800

Claim Rejections - 35 USC § 101

2   35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
conditions and requirements of this title.

Claims 2-4, 8, 10, 12, 14, 16-19, 22, 26, 28, 30 and 32 are rejected under 35

U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 2-4, 8, 10, 12, 14, 16-19, 22, 26, 28, 30 and 32 recite a "data carrier" which is

defined in the specification page 4 lines 15-17 as "The data carrier may be a memory

device, such as a disk or memory chip or any other physical portable memory, or it may

be an **electronic signal** such as transmitted over a computer network." See MPEP

2106.01 [R-5].

Claim Rejections - 35 USC § 103

3   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 7-14, 16-19, 21, 22 and 25-32 are rejected under 35 U.S.C. 103(a)

as being unpatentable over Kmack et al. (US 6, 304, 851) (Hereafter referred to as

Kmack) in view of Hallberg, B; Kinkoph, S; Ray, W; "USING MICROSOFT EXCEL 97";

Que, Indianapolis, Ind.; 1997; pp. 31, 252 and 253 (Hereafter referred to as Hallberg).

Kmack teaches:

For each task of a plurality of observed tasks (column 8, lines 21-29), a display

(touchscreen; column 8, lines48-51) presents a plurality of icons (buttons; column 8,

lines 54-57), each icon comprising a pictorial representation of a generic task and each

icon being a selectable option (user defined; column 8, lines 54-57) to describe the task

(column 8, lines 36-39) in regard to claim 1;

A chronometer accepts input from a user to select (select...using...touchscreen;

column 8, lines 48-51) an icon to characterize a task (column 8, lines 8-12) in regard to

claim 1;

A data carrier containing a computer program which, when run on a general

purpose computer, causes the computer to be a chronometer (column 8, lines 1-4) in

regard to claims 2, 8, 10, 12, 14, 16, 22, 26, 28, 30 and 32;

A data carrier is a memory device (column 7, lines 58-65) in regard to

claims 3 and 18;

A data carrier is an electronic signal (column 8, lines 5-8) in regard to claims 4 and 19;

An icon represents an unknown task and selection of this icon by a user allows the user to enter a textual description of the task (column 8, lines 54-57) in regard to claim 7;

Icons are loaded into a memory of a chronometer by copying from an external memory coupled to the chronometer (column 8, lines 5-8) in regard to claims 9 and 29;

Icons are presented on a touch screen and input from a user is accepted from the touch screen (column 8, lines 48-50) in regard to claim 11;

Data sets collected for each of a plurality of tasks which all have the same generic selected icon are associated together by a shared icon for subsequent processing together (column 5, lines 16-30) in regard to claims 13 and 31;

A data carrier containing a plurality of icons, each icon comprising a pictorial representation of a generic task and each icon being suitable for selection to identify a task to be observed in a time study, for copying into a time studies chronometer with a changeable display for presenting the icons on the display (column 8, lines 29-39) in regard to claim 17;

For each of a plurality of tasks to be observed, a display presents a plurality of generic task characterization icons, each icon comprising a pictorial representation of a characterization of a task and each icon being suitable for selection to characterize a task (column 8, lines 40-48) in regard to claim 21;

A chronometer accepts input from a user to select one task characterization icon (column 8, lines 8-12) in regard to claim 21;

Options include a characterization of value added or no value added (column 12, lines 9-13) in regard to claim 25;

Presented icons include a characterization of a method of inspection wherein icons comprise representations of sight, touch, and device (column 8, lines 17-20; figure 1) in regard to claim 27;

And optional characterization icons are loaded into a memory of a chronometer by copying from an external memory coupled to the chronometer (column 8, lines 5-8) in regard to claim 29.

Kmack does not fully teach:
An icon comprising a pictorial representation of a generic task in regard to claims 1-4, 7-19, 21, 22 and 25-32;

A means for subsequent processing of collected time data by computing at least one of range, distribution, standard deviation, mean, or median in regard to claim 15.

Hallberg teaches:
An icon comprising a pictorial representation of a generic task (application icon; pp 28; figure 2.2 and assigning procedures to a button; pp 1112-1115; figures 41.7 and 41.8) in regard to claims 1-4, 7-19, 21, 22 and 25-32.

A means for subsequent processing of collected time data by computing at least one of range, distribution, standard deviation, mean, or median (Using the Analysis Toolpak; pp 676 and 677 and pp 837-859) in regard to claim 15.

In regard to claims 1-4, 7-19, 21, 22 and 25-32, it would have been obvious to one skilled in the art at the time of the instant invention to modify the teaching of Kmack of a display presents a plurality of icons, each icon comprising a pictorial representation of a generic task and each icon being a selectable option with the teaching of Hallberg of an icon comprising a pictorial representation of a generic task because a user could have associated or created different icons to represent specific elements (tasks).

Regarding claim 15, it would have been obvious to one skilled in the art at the time of the instant invention to modify the teaching of Kmack of a display presents a plurality of icons, each icon comprising a pictorial representation of a generic task and each icon being a selectable option to describe the task with the teaching of Hallberg of a means for subsequent processing of collected time data by computing at least one of range, distribution, standard deviation, mean, or median because "time and motion study reports may be used to ... identify a change in the work process of the ... operation to improve how they service ... outlets".

Response to Arguments

4   Applicant's arguments have been fully considered are moot in view of the new grounds of rejection.

Applicant's arguments, filed 11 September 2006, with respect to claims 1-4, 7-19, 21, 22 and 25-32 have been considered but are moot in view of the new grounds of rejection.

Applicant argues the Kmack patent does teach or suggest icon.

Examiner notes Kmack teaches button (icon) (column 8, lines 54-57).

Further, Kmack discloses "Examples of application programs that may be utilized to study or analyze the data and information include Microsoft.RTM. Access and Excel (a trademark of Microsoft Corporation, Washington, USA). "(column 8, lines 35-39). Microsoft Access and Excel are both applications which were well known and widely distributed at the time of the instant invention and which provide a user means for creating custom graphical/pictorial depictions (ie. toolbars, menus and buttons). In particular, a user would have means for creating an icon for any task desired (see Hallberg, B; Kinkoph, S; Ray, W; "USING MICROSOFT EXCEL 97"; Que, Indianapolis, Ind.; 1997; pp 28-31, 676, 677, 837-859 and 1112-1115). Further, Hallberg teaches a button is an icon (see pp 28, figure 2.2). Therefore Kmack clearly suggests display and selection of icons. The examiner maintains Kmack anticipates the broadly claimed limitations of the instant invention in regard to claims 1-4, 7-19, 21, 22 and 25-32.

Conclusion

5   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas N. Washburn whose telephone number is (571) 272-2284. The examiner can normally be reached on Monday through Thursday 6:30 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DNW

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